THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.11515 of 2006

Dated: 14-06-2006

Yerukula Pentaiah and three others.

..... PETITIONERS

AND

The Mandal Revenue Officer, Nizamabad District

and five others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.11515 of 2006

ORDER:

The four petitioners claim to belong to schedule tribe. They were statedly assigned land admeasuring Acs.3-00 each in survey No.240 near Nagamma Kunta, Kyasampalli Village of Kamareddy Mandal in Nizamabad District. They allege that they have raised a sugarcane crop. On
28-05-2006, the respondents 1 and 2 allegedly brought 20 labourers and started damaging the land by digging. In spite of protests, on
30-05-2006, the Mandal Revenue Officer again damaged the land and though they approached the third respondent, no action was taken. Therefore, apprehending further injury, they filed the present writ petition seeking a writ of Mandamus (i) to direct the respondents 1 and 2 not to interfere with the peaceful possession and enjoyment of the land in survey No.240 situated in Nagamma Kunta in Kyasampalli village, Kamareddy Mandal, Nizamabad District and stop digging and changing the

nature of land; (ii) to direct the respondent No.4 to initiate criminal prosecution against the respondents 1 and 2 and respondents 5 and 6 under the relevant law and more particularly under Indian Penal Code and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989; and (iii) to direct the respondents 1 and 3 to pay compensation for the damage and loss caused to the lands belonging to the petitioners and pass such other order.

The matter was initially listed yesterday. To enable the learned Assistant Government Pleader for Revenue (General) to get instructions, the matter was adjourned. Today, after getting instructions, the learned Assistant Government Pleader submits that the respondents never interfered with the possession of the land in survey No.240, which was assigned to the petitioners. He also submits that when there was an attempt by the petitioners to encroach upon the other land, the District Collector issued a memo and that after conducting survey, the land in survey No.240 was shown to the petitioners. He has also produced the relevant file in support of this.

As the petitioners filed the present writ petition apprehending dispossession from their land in survey No.240 and as there is a categorical statement made by the learned Assistant Government Pleader, on instructions, that there is no threat of dispossession nor any action against the petitioners, the writ petition is disposed of observing that unless and until due process of law is followed, the right of the petitioners' to enjoy their land cannot be denied to them nor the respondents can resort to any action like digging the land. It shall also be open to the third respondent to look into the complaint made by the petitioners and take appropriate action. No costs.

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V.V.S.RAO, J

14th June, 2006

ghn